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STATE LAND USE PROGRAMS: ISSUES AND OPTIONS

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by Raymond R. Christman
Pennsylvania Land Policy Project

a supplementary study of the
Pennsylvania Land Policy Project

prepared for: the Pennsylvania Office of State Planning
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PREFACE

In preparing the report, "A Land Use Strategy for Pennsylvania", it became clear that several study elements warranted more extensive treatment than would be possible in the principal report. Accordingly, supplementary studies were commissioned to examine the legal underpinning for a Pennsylvania land use program; consider the economic implications of such a program; and evaluate the experience of other State land use programs as they bear on the needs and circumstances of the Commonwealth.

The three studies are:

Laws Which Regulate Land Use In Pennsylvania
by Thomas M. Schmidt

Potential Economic and Fiscal Impacts of A Land Use Policy for the Commonwealth of Pennsylvania
by Benjamin H. Stevens

State Land Use Programs: Issues and Options
by Raymond R. Christman

A fourth publication, "Expectations of the Land: The Pennsylvania Land Use Attitude Survey", will present attitude survey data and results as a separate from the principal report.

Copies of these publications are available through the Pennsylvania Land Policy Project.

Preparation of these studies would not have been possible without the assistance of the Rockefeller Foundation, New York, N.Y.; the William Penn Foundation, Philadelphia, Pennsylvania; and the Richard King Mellon Foundation, the Allegheny Foundation, and the Laurel Foundation, all of Pittsburgh, Pennsylvania. The financial support of these institutions is gratefully acknowledged.

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A. Guides for Pennsylvania

Beginning with Hawaii in 1961, a growing number of states have established programs for planning and managing their land resources. Often, these efforts were catalyzed by a particular, urgent concern - - recreation and second home development in Vermont and Colorado; a water shortage in Florida; the despoliation of the coastline in California and Delaware - - which captured the attention and involvement of citizens, legislators, and public officials. Generally, states have found it difficult to build support for their programs without the presence of such an overriding issue, or without a strong commitment from the Governor.

In range and type, land use strategies have been varied, according to each state's particular political, institutional, and geographic features. Similarly, Pennsylvania's special situation and needs suggest that a unique approach be developed to meet its own requirement. While no single state program provides a "best model" for the Commonwealth, the efforts of other states do offer several useful guidelines:

- Develop a process, not a plan. A land use strategy needs to establish a state-wide process which includes such elements as formulation of long-range policy, coordination of existing State programs and activities, development of relationships with local and regional governments, and development and enforcement of state controls. Such an effort involves careful consideration of various options and alternatives, but need not be predicated on preparation of a state land use plan.

In Vermont, the required development of a State land use plan has led to strong disagreement over the plan's purposes and provisions. Although the on-going regulatory program is not directly based on the plan, the controversy has weakened general support for Vermont's land use effort.

- -Divide land use concerns between State and local government. While increased regional and State involvement is needed in land use decision-making, it should be carefully directed toward those matters of more than local significance. At least 90 percent of all land use decisions - - such as locating a gas station or siting a small apartment house - - should remain local concerns.

There are, however, certain facilities, activities, or areas of interest which have an impact beyond local boundaries. These concerns (the siting of power plants, planning large shopping malls, protecting wetlands, etc.) should be planned and managed with the broader interests of the region and State represented.

- -Decentralize the administrative process. Most land use programs have been founded on state guidance and local operation. In Florida, for example, local governments administer State controls for both critical areas and developments of regional impact, with opportunity for the state to intervene where appropriate.

Similarly, the Commonwealth - - as it develops policies and programs for matters of state concern - - should delegate administrative responsibility to its localities.

- -Reinforce and strengthen local planning capabilities. Strengthened local planning can assist localities to better enforce state and local controls, and, at the same time, complement State plans. Several states have required or encouraged local planning as one means of complementing an overall regulatory strategy. In Oregon, for example, counties are required to develop and implement comprehensive land use plans. The plans are reviewed by the State for consistency with state goals and guidelines.

Both Maine and the Adirondack Agency provide incentives to local governments to develop land use plans and regulations. Under these programs, certain state development regulations are removed upon state approval of local plans and controls

- -Develop a State land use strategy comprised of several program elements. Both the proposed national land use legislation and the draft ALI Model Land Development Code propose the development of comprehensive state land use programs which regulate critical development activities and environmental areas. This is the approach adopted by Florida.

Other states have chosen to develop a series of separate programs which, in combination, enable the state to play an important role in land use planning and management. In Maine, for example, laws now exist to control major development, regulate shoreland areas, and manage the state's large expanse of unincorporated territory. Similarly, Minnesota has developed an impressive body of legislation, including a critical areas law, a power plant siting act, a deferred tax for preserving agricultural land, and a wild and scenic rivers act.

The land use strategy proposed for Pennsylvania also would employ a number of program elements.

Although none of the state land use programs initiated thus far is wholly relevant to the Pennsylvania requirement, the experience of seven states is especially noteworthy. Brief analyses of each of these follows, with particular attention to their adaptability to the needs of the Commonwealth. In addition, a comparison of all major state land use programs is provided in chart form.

B. Seven State Land Use Programs

I. VERMONT'S ACT 250: Comprehensive Land Use Planning and Regulation

In 1970, the Vermont legislature enacted one of the strongest land use programs in the nation. Act 250 granted the State immediate regulatory authority over major development projects. Moreover, the Act mandated the development of a land use planning process to establish a more comprehensive basis for state regulation, and to serve as a blueprint for Vermont's future.

Vermont was the first state, other than Hawaii, to develop a comprehensive approach for managing and planning its land resources. While the State's size and traditions limit Act 250's application to other states, land use legislation in Vermont is particularly important from two standpoints - - its success as a regulatory strategy, and its failure as a land use planning effort.

The Permit Process

Eight multi-county commissions - - comprised of private citizens appointed by the Governor - - operate the State permit program. A State Environmental Board oversees the permit-issuance process, and serves as an appeals body. The commissions base their decisions on a set of generalized criteria written into Act 250, and later expanded in a State capability and development plan enacted by the Legislature. The criteria evaluate the impact of new development on such factors as air and water pollution, water supply, and municipal services.

Under the Act, developments requiring permits include:

- - any housing or trailer park development of more than 10 units;
- - any commercial or industrial improvements on more than 10 acres;
- - any subdivision of land for sale in parcels of 10 acres or under;
- - any state or municipal construction on more than 10 acres;
- - all development - - commercial, industrial, or residential - - above 2,500 feet.

In those localities without zoning or subdivision regulations, the permit requirement is extended to all developments involving more than one acre, rather than 10. Because few local governments in Vermont have land use controls, the latter rule has applied across most of the state.

The Planning Process

Although Act 250 is largely a regulatory program, it also required preparation of two plans:

- - a capability and development plan, which would (a) contain criteria for judging development applications, and (b) establish guidelines relating to settlement patterns, development impact, and preservation of resources; and
- - a State land use plan "consisting of a map and statements of present and prospective land uses, which determine the proper use of land in the State, whether for forestry, recreation, agriculture, or urban purposes." (Vt. stat. Ann. tit. 10, Sec. 151 6001-6091).

While the capability and development plan has met with general acceptance, the State land use plan has been strongly resisted. Major opposition was kindled by fears that the plan was tantamount to state-wide zoning. Supporters of Act 250 contend that the proposed land use plan would only allow the State to do better what it has been doing for 5 years - - encourage development that is better planned and of higher quality. They note that only 40 of the 1,948 permit applications processed by district commissions through October 1, 1973 were denied outright; rather, applications were usually approved with conditions attached.

It now seems unlikely that a State land use plan will be enacted by the Legislature. Recession, energy shortages, and lack of mortgage money have all contributed to diminished attention to environmental issues in Vermont. While existing land use controls do not depend on enactment of a State plan, reduced public concern may limit Act 250's future effectiveness.

II. FLORIDA: A New State/Local Partnership

Perhaps no state land use program was conceived out of a more immediate sense of crisis and concern than that of Florida. As the 1970's began, the State was confronted with extraordinary growth pressures:

- - Florida has three of the five fastest growing metropolitan regions in the nation - - South Florida, Tampa-St. Petersburg, and Orlando;
- - the State was attracting 4,300 new residents each week;
- - Dade County, alone, experienced a population jump from 500,000 to 1 million residents in just a decade.

In the fall of 1971, a water shortage - - brought on by a severe and lengthy drought in Southeastern Florida - - persuaded Governor Reubin Askew to appoint a task force to study the issues of land and water management. The task force's recommendations led to the passage of the Environmental Land and Water Management Act - - Act 380 - - in the summer of 1972.

Act 380 was patterned on the American Law Institute's Model Land Development Code and the proposed national land use legislation. It required local implementation of State policies, and provided for State intervention in two instances:

- - land use decisions in certain vulnerable and fragile areas called "areas of critical State concern";
- - decisions involving major development projects - called "developments of regional impact" (DRI).

Areas of Critical State Concern

Act 380 defines three kinds of "areas of critical State concern":

- - areas containing "environmental, natural, or archeological resources of regional or statewide importance";

- - areas "affected by" or "having a significant effect upon an existing or proposed major public facility or other area of major public investment"; and
- - "proposed areas of major development potential - - such as a new community."

The Division of Planning in the State Department of Administration makes recommendations for each site proposed as a "critical area." The Administration Commission - - consisting of the Governor and his Cabinet - - must vote within 90 days to either accept or reject the designation.

Once a "critical area" is designated, local governments, following State guidelines, are given six months to prepare acceptable land use regulations for controlling development within the area. If the localities comply, they retain responsibility for administration of the controls.

But if a local government does not comply - - or if the regulations it develops are found to be inadequate - - the Division of State Planning may prepare its own set of regulations for the area. If the local government fails to adequately enforce the controls, the State may "institute appropriate judicial proceedings."

The critical areas section of Act 380 is considerably weakened by two provisions:

- 1) There is no provision for interim regulation of critical areas;
- 2) No more than 5 percent of Florida's total land area may be designated as "critical".

Critical areas may be "critical" because of the threat of imminent development. Knowledge that a particular area is under consideration for special protection - - but that no state enforcement is possible until the area is officially designated - - can have the effect of encouraging developers to act quickly in order to avoid stiffer controls. Since many localities in Florida are without local land use controls, development often can proceed without regulation of any kind.

The 5 percent rule also hinders effective land use management in Florida, placing an arbitrary, and probably inadequate, limit on the designation of critical sites. Interestingly, the Big Cypress Conservation Act of 1973 - - which designated the Big Cypress Swamp as a State critical area - - represented an effort to afford protection to a valuable environmental site without violating the 5 percent ceiling. The Legislature, in passing the Act, exempted Big Cypress from this rule.

Developments of Regional Impact

Act 380 defines a development of regional impact (DRI) to be "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens or more than one county."

Developers, using guidelines and standards prepared by the Division of State Planning, first determine if their proposed project qualifies as a DRI. If it does, they provide information to the local government, the regional planning agency, and the State planning office concerning the effect of their development on;

- - environment and natural resources (water quality, air quality, noise levels, sedimentation, erosion, and animal life);
- - public facilities (sewage, solid waste disposal, power supply, schools, transportation); and
- - economy (jobs, taxes, housing).

Local governments - - acting on the basis of information supplied by the developer, and an impact review and recommendation prepared by the regional planning agency - - then decide on the permit request. It can be approved, denied, or approved with conditions.

The effectiveness of the DRI program largely depends on the adequacy of state guidelines, and the quality of enforcement. Critics contend that the guidelines are too loose, allowing developers to ease in under the threshold, or build several smaller projects which individually do not require permits, but which in aggregate have as significant an impact on a region as a single large-scale project. Moreover, state guidelines and regulations can only be enforced where local land use controls are in effect - - otherwise, the developer may proceed without direct regulation.

III. OREGON: Measuring a State's Growth

The recent public campaign to "keep Oregon Oregon" raised widespread interest in that State's response to its land use problems. Oregonians, led by Governor Tom McCall, had begun expressing a concern over limits - - both in terms of the influx of new immigrants, and with regard to the ever-increasing sprawl development which was threatening their State's landscapes. As one example, the Willamette River Valley - - where 75 percent of the State lives and works - - had doubled its population since 1940.

Oregon benefitted from the twin thrust of strong executive leadership and a determined public commitment for better use of its land resources. An impressive legislative foundation had also been developed. Recently enacted land use-related laws included:

- - a farmland assessment bill;
- - a State uniform building code;
- - a conflict of interest law for city and county planning commission;
- - a land sales disclosure statute;
- - a bill requiring the development of local subdivision regulations.

The heart of Oregon's land use program, however, was SB 100, passed in 1973. Essentially, this law provided for:

- 1) direct State regulation of "activities of state-wide significance;" and
- 2) the implementation of local comprehensive land use planning.

Regulating Growth Activities

SB 100 established an independent Land Conservation and Development Commission, composed of seven members appointed by the Governor and approved by the Legislature. The Commission acts as the permit-issuance body for certain "activities" whose impact significantly affect land use. These activities may include the planning and siting of:

- 1) public transportation facilities;
- 2) public sewerage systems, water supply systems and solid waste disposal sites and facilities; and
- 3) public schools.

The Commission decides when these activities "by their nature or magnitude" qualify as significant, and issues permits on the basis of adopted state goals and guidelines. Additional activities not defined in the legislation may later be recommended for designation by the commission.

The Oregon approach to controlling development is substantially different from that of Florida, or the proposed national land use legislation. In Florida, certain projects of substantial size may be regulated, while in Oregon, control over activities of state-wide significance - - roads, sewer lines, etc. - - amount to State authority over much of the infrastructure underlying the development process.

SB 100 attempts to complement the "significant activities" provision with a process for designating and regulating "areas of critical State concern." Unfortunately, legislative action was required on each recommended critical area designation. An administrative designation of critical areas - - which the Florida program provides for - - offers a more efficient approach.

Comprehensive Land Use Planning

SB 100 also encourages the development and implementation of comprehensive land use plans. Local governments (usually counties, and some cities) are required to prepare and implement plans on the basis of adopted state goals and guidelines. The Land Conservation and Development Commission had until January 1, 1975 to develop these goals and guidelines, and the counties until 1976 to bring their plans into conformance with the state guidelines. Where county plans and State guidelines conflict, the Commission has authority to make revisions.

In order that localities might begin their planning efforts prior to completion of the Commission's work, interim guidelines were written into SB 100. For example, the law requires that land use planning in Oregon address the need to:

- preserve the quality of the air, water, and land resources of the state;
- conserve open space and protect natural and scenic resources;

- conserve prime farmlands for the production of crops;
- develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development;
- provide for the recreational needs of citizens of the state and visitors;
- provide for an orderly and efficient transition from rural to urban land use;
- protect life and property in areas subject to floods, landslides, and other natural disasters;
- provide and encourage a safe, convenient and economic transportation system including all modes of transportation;
- diversify and improve the economy of the State;
- ensure that development is commensurate with the character and the physical limitations of the land.

IV. MAINE: Three Land Use Programs

By 1973, only 80 of Maine's 490 cities and towns had developed land use controls, and just 125 had formed planning boards. This absence of local land use controls was of little concern until late in the 1960's, when the State suddenly was faced with development pressures from two sources:

- - recreation and second-home development; and,
- - oil refineries and deep-water ports proposed along the State's scenic coastline.

Beginning in 1970, the Maine Legislature passed a series of laws aimed at controlling this development, and encouraging local governments to better plan and manage their land resources. In-

dividually, none of these laws is as comprehensive as either the Florida or Oregon programs. Taken together, however, they comprise an original and important land use planning and management effort.

The Site Location Act

Passed in 1970, this law empowers the State to guide significant development projects in much the same way as Vermont's Act 250. Unlike Act 250, however, the Site Location Act is only concerned with regulation; there is no requirement for planning.

Permits are required from the Board of Environmental Improvement in the State Department of Environmental Protection for any commercial, residential, or industrial development which:

- 1) occupies a land area in excess of 20 acres;
- 2) contemplates drilling for or excavating natural resources; or
- 3) occupies, on a single parcel, a structure or structures in excess of a ground area of 60,000 square feet.

Like the Vermont Commissions, the Environmental Board has generally granted permit requests - - with conditions attached. The Board bases its decisions on four statutory environmental criteria:

- - ability to meet State air and water pollution standards;
- - adequacy of traffic movement;
- - impacts on the natural environment;
- - suitability of soil types.

The Environmental Board is given some latitude in interpreting and expanding these criteria. Additionally, a comprehensive state policies plan is being developed to provide further guidance for state regulatory decisions.

Mandatory Shoreland Zoning and Subdivision Control Act.

Maine has 1,300 miles of coastline, and over 3,000 lakes and ponds. Development pressures are particularly severe on these attractive and fragile areas.

The Mandatory Shoreland Zoning and Subdivision Control Act assists local governments to more effectively manage coastal development. The law requires communities to develop zoning and subdivision regulations for those lands within 250 feet of navigable waters (including any lake or pond of more than 10 acres). The State may adopt ordinances for those localities which have failed to comply by July 1, 1975.

The Maine Land Use Regulation Commission

Fifty-one percent of Maine is unincorporated, presenting special problems for planning and regulation. The Maine Land Use Regulation Commission was established in 1970 to extend land use controls over this area through the classification of lands into protection, management, development, and holding districts.

The Commission is comprised of seven members, with the State Planning Director serving as Secretary. Its major responsibility

is the preparation, implementation, and enforcement of land use guidance standards for each of the four districts. If an area decides to incorporate, these controls and standards remain in effect until the new locality develops land use regulations at least as stringent.

V. CALIFORNIA'S COASTAL ZONE MANAGEMENT PROGRAM

California has focused its land use planning and management programs on particular geographic areas of the state:

- - in 1965, the Legislature established the San Francisco Bay Conservation and Development Commission (BCDC) to plan and regulate the use of lands adjoining the bay and to develop a long-range bay plan;
- - in 1970, an interstate compact between California and Nevada created the Tahoe Regional Planning Agency, and charged it with responsibilities for preparing a land use plan for the Lake Tahoe Basin and for working with local agencies to develop more effective land use controls;
- - on November 7, 1972, the voters of California approved Proposition 20, authorizing the planning and regulation of land use along the State's 1100 mile coastline.

This third piece of legislation - - the California Coastal Zone Conservation Act (CZCA) - - contains some of the strongest provisions for public involvement and environmental protection of any state land use program. It provides for the creation of an independent State commission and six regional commissions, comprised of representatives from both local government and the general public. Moreover, the CZCA assigns the commissions two major responsibilities:

- - to plan for the future of the California coastal zone; and
- - to regulate, during the planning period, coastal zone development through a permit system.

Permit applications are required for any proposed development which locates within the commission's jurisdiction - - an area extending from three miles at sea to a line 1,000 yards inland from the line of mean high tide - - and which involves more than \$7500. Applications are made to the regional commissions, who rule, after holding extensive public hearings. Decisions of the regional commissions can be appealed by any aggrieved party to the State commission for adjudication. There are also explicit provisions for citizen-initiated suits.

In addition to their permit-issuance duties, each regional commission must have prepared and submitted to the State commission by April 1, 1975, a plan for their area of the coastal zone. The State commission, after considering regional recommendations, will submit a plan for the entire coastal zone to the Legislature for "adoption and implementation."

The regulatory responsibilities of the commissions are temporary, and can remain in effect only if the Legislature takes favorable action on the proposed coastal zone plan during the 1976 session. Without passage of new legislation, both the State and regional commissions will go out of existence no later than January 1, 1977.

VI. DELAWARE: Balancing Environmental and Energy Needs

Like California, Delaware recently enacted legislation to protect the environment and character of its coastal zone. The Delaware Coastal Zone Act (1971), however, contains a more explicit focus than its California counterpart - - it "seeks to prohibit entirely the construction of new heavy industry in its coastal areas."

While Delaware is a small state, with a land area of less than 2,000 square miles, the pressures on its coastline have been especially severe. By 1971, Delaware Bay was the receiving point for 70 percent of the oil imported into the eastern United States. That year, a 13-company petroleum consortium announced plans to build additional offshore docking facilities for supertankers in the lower Delaware Bay, and the Shell Oil Company proposed a 5,000-acre refinery in a portion of the coast's undeveloped area.

Concerns over these proposed developments led to enactment of the Coastal Zone Act on June 28, 1971. The legislation requires any person proposing any kind of industrial development in the coastal zone to obtain a permit from the State Planning Director. Coastal development is separated into three categories:

- - heavy industrial uses, defined as development involving more than 20 acres and having the "potential to pollute when equipment malfunctions or human error occurs";

- - offshore gas, liquid, or solid bulk transfer facilities;
- - other kinds of manufacturing uses.

Both heavy industrial uses and offshore transfer facilities are banned from the coastal zone. Permits for manufacturing uses, however, are approved, denied, or approved with conditions, on the basis of six factors:

- - environmental impact (air and water pollution, destruction of wetlands and flora and fauna, impact on flood control, etc.);
- - economic effect (jobs created, wages and salaries, tax revenues);
- - aesthetic effect;
- - number and type of supporting facilities required and the impact of these facilities on the other factors listed;
- - effect on neighboring land uses, such as public access to tidal waters, effect on recreational areas, and effect on adjacent residential and agricultural areas;
- - conformance with county and municipal comprehensive plans for the development and/or conservation of their areas of jurisdiction.

Administrative responsibility for the Act was lodged with the State Planning Office. A new agency - - the State Coastal Zone Industrial Control Board, composed of 10 members from government and private life - - acts as an appeals body. Any person aggrieved by the final decision of the State Planning Director may seek recourse with this Board.

Despite limited staff and funding problems, the Delaware program has served to protect the state's coastline. Growing concern over energy shortages and Delaware's economic condition, however, have precipitated recent efforts to repeal the Act or substantially weaken its provisions.

VII. THE ADIRONDACK PARK AGENCY: Protecting a Regional Resource

The Adirondack Park - - 6 million acres of public and private land - - is one of the largest remaining areas of scenic wilderness east of the Mississippi. The land was originally designated by the New York Legislature in the 1890's for possible State purchase. Since then, approximately 2.3 million acres have been acquired, the balance remaining in private hands.

While public lands were effectively managed and protected by the State, local land use controls were often inadequate. In 1968, for example, only 9 of the 89 towns in the Park had zoning regulations. Moreover, public and private properties often adjoined, causing various frictions and conflicts. Increasingly, there was need for a comprehensive land use regulatory strategy designed to reconcile these problems.

Responding to concern over the Park's future, Governor Rockefeller ordered a special land use study to be undertaken. On the basis of its recommendations, the Adirondack Park Agency was established in 1971, and charged with preparation of two plans, to be submitted to the Governor and the Legislature:

- 1) a Master Plan for state-owned lands in the Park (approved in 1972);
- 2) a land use and development plan for private land within the Park, with recommendations for its implementation.

The Land Use and Development Plan

The second plan developed by the Agency - - the Adirondack Park Land Use and Development Plan - - took effect on August 1, 1973, upon approval by the Governor and Legislature. It divides all private land in the Park into six categories, including:

- - hamlets
- - industrial use areas
- - moderate intensity use areas
- - low intensity use areas
- - rural use areas
- - resource management areas

Each of the six areas is expected to accomodate a different kind and intensity of land use. Agency regulation is guided by 1) a listing of compatible land uses for each area, and 2) the establishment of guidelines for maximum permissible intensities of development.

For example, hamlets (which are existing communities in the Park) and industrial use areas are essentially regulated only as local governments choose. In all other areas, residential, commercial, and industrial uses are permitted according to state guidelines, and at varying intensities.

The Agency also has authority to review and approve certain development projects (Class A Regional Projects) which have Parkwide implications because of their size, location, or particular nature. Concurrent approval of the Agency and local government is required before a permit may be issued.

A second category of development (Class B Regional Projects) may not be of Parkwide significance, but may be of more than local importance. In these cases, localities may retain sole review and approval authority - - but only if they have an Agency - approved local land use program. This helps create a system of intergovernmental planning which provides special incentives for local government participation.

C. STATE LAND USE PLANNING AND MANAGEMENT PROGRAMS

STATE	ADMINISTERING AGENCY	PROGRAM SUBSTANCE	ORGANIZATION AND OPERATION	INTERIM REGULATORY AUTHORITY
Hawaii Land Use Law (Hawaii Rev. Stat. tit. 3, Chap. 205-Enacted 1961).	Hawaii Land Use Commission.	Comprehensive zoning (urban, rural, agricultural, and conservation districts) and planning for all lands within the State.	1) County zoning regulations control land uses in urban district. 2) State Land Use Commission regulates land use in rural and agricultural districts. 3) Department of Land and Natural Resources regulates use of land in Conservation Districts.	None required.
Vermont's Act 250 (Vt. Stat. Ann. tit. 10, Sec. 151 6001-6091-Enacted 1970).	State Environmental Board.	State permit system regulates major subdivisions and commercial or industrial developments over 10 acres in size. Where no local zoning or subdivision controls exist, size of developments subject to regulation is reduced to one acre.	Permit application procedure is directly administered by 8 multi-county district commission. A State inter-agency committee reviews and comments on each application.	Full and immediate regulatory authority granted to District Commissions.
Maine Site Location of Development Act (Me. Rev. Ann. tit. 3, Sec. 481-488 Enacted 1970).	State Environmental Improvement Commission.	State permit system regulates commercial, industrial, and residential developments which "substantially affect the local environment."	State Commission is exclusive decision-maker; no decentralization of the regulatory process.	Enactment of legislation provided immediate regulatory powers.
Florida Environmental Land and Water Management Act (Fla. Stat. Ann. tit. 14, Chap. 380-Enacted 1972).	Division of State Planning, Department of Administration.	State regulatory control over: 1) areas of critical State concern (significant environmental, historical, or natural resource areas), and 2) developments of regional impact (projects of sufficient size to have a regional impact).	1) State designates areas of critical State concern and establishes principles to guide local government implementation and enforcement. If locality fails to develop adequate regulations, the State will assume this responsibility. 2) State guidelines define characteristics of developments of regional impact. Local governments decide on permit applications, and regional planning agencies provide review and comment.	No State authority over development in designated critical areas until local government adopts regulations for each area.
Oregon Land Use Law (Ore. Rev. Stat. tit. 2, Sec's 215.055; 215.510; 215.515; and 215.535-Enacted 1973).	State Land Conservation and Development Commission (LCDC).	1) Establishes a State permit system for activities of State-wide significance. 2) Requires development and implementation of county comprehensive plans.	1) LCDC adopts State-wide goals and guidelines. 2) State and local plans and related actions must be consistent with these goals. 3) Counties required to prepare and adopt comprehensive plans and to implement these plans through zoning, subdivision regulations, and other ordinances. These must all be consistent with State goals. 4) LCDC designates activities of State-wide significance and regulates them through a permit system.	None provided.

STANDARDS, GUIDELINES, AND CRITERIA	APPEALS PROCEDURE (other than judicial review)	PUBLIC PARTICIPATION	COMMENTS
No specific criteria or guidelines. General statutory principles guide State decisions on permit applications.	Requests for special uses within district boundaries or petitions for boundary changes made to the State Land Use Commission.	Statutory provision for public hearings.	The first, and most comprehensive, State Land Use program enacted. Its special quality can in part be traced to Hawaii's critical resource problems, small land area, and tradition of strong central government.
Capability and Development Plan contains principles and criteria for guiding District Commission decision-making.	Administrative appeals of District Commission decisions made to State Environmental Board.	1) Public hearings held during development of State plans. 2) Initial public education effort explaining the program carried out through private sources.	State-wide land use plan based on previously enacted Capability and Development Plan was recently defeated in the Vermont Legislature. The implications of this decision for the Vermont regulatory program are not known.
Statutory environmental criteria guide State decision-making.	No provision for administrative appeals.	No specific public requirements provided for.	Development of a State Land Use Plan is not a requirement of this legislation.
State establishes principles to guide local government regulation of areas of critical State concern. It also establishes criteria and guidelines by which developments of regional impact can be measured.	Administrative appeals of local permit decisions made to State Land and Water Adjudicatory Board (Governor and Cabinet).	1) Public hearings required in certain circumstances. 2) The Environmental Land Management Study committee, a citizen's advisory committee, created to recommend additional legislation. (Dissolved June 30, 1974).	Related enactments include: 1) Voter approval of \$240 million bond issue to finance State purchase of endangered lands and recreation areas. 2) Designation of the Big Cypress Swamp as an area of critical State concern.
Interim State planning goals guide counties in preparing comprehensive plans - Final goals and standards to be adopted by Jan. 1, 1975.	Administrative appeals of State and local plans and actions not consistent with State goals made to LCDC.	1) State Citizen Involvement Advisory Committee created to assure public participation in development of State-wide goals. 2) LCDC insures citizen involvement in all phases of the planning process. 3) Counties must submit a program for citizen involvement in the preparation, adoption, and revision of comprehensive plans.	Additional activities of State-wide significance and areas of critical State concern may be recommended to legislature in 1975.

C. STATE LAND USE PLANNING AND MANAGEMENT PROGRAMS

STATE	ADMINISTERING AGENCY	PROGRAM SUBSTANCE	ORGANIZATION AND OPERATION	INTERIM REGULATORY AUTHORITY
Colorado Land Use Program (Colo. Rev. Stat. tit. 3, Ch. 106-2, Chap. 106-4) 1) SB 35-Enacted 1971. 2) HB 1041-Enacted 1974.	Colorado Land Use Commission.	Local government compliance requested in 1) developing subdivision regulations and, 2) designating "matters of State interest."	1) SB 35 requests counties to develop subdivision regulations, utilizing State guidelines and standards. If a county fails to comply, the State will formulate regulations for enforcement by the county. 2) HB 1041 requests local jurisdictions to identify "matters of State interest" (either geographic areas or development activities). Localities then set up their own systems of land use control for these areas or activities. Land Use Commission can formally request, but not require, a locality to designate any area or activity.	Under HB 1041, no regulatory authority is granted for "matters of State interest" until jurisdictions develop local controls.
Nevada Land Use Planning Act (Nev. Rev. Stat. tit. 11, Sec's 321.640; 321.810-Enacted 1973).	State Land Use Planning Agency, Department of Conservation and Natural Resources.	Regulates areas of critical environmental concern. Also sets in motion a comprehensive planning process for the State.	1) The Director of the Department of Conservation and Natural Resources, with the concurrence of the Governor, designates areas of critical environmental concern. 2) The State land use planning agency adopts standards and a land use plan for these areas.	Immediate State regulatory authority is permitted if potential degradation of the critical environmental area is found to be imminent.
Maryland Land Use Act (Md. Code Ann. tit. 8, AA. 88C-Enacted 1974).	Department of State Planning.	State designation — based on local recommendations — of areas of critical State concern. The State may also intervene in certain land use decisions of local government.	1) Local governments, as a part of their comprehensive plans, may recommend areas of critical State concern to the Department of State Planning. 2) On the basis of these recommendations, the Department formally incorporates designations of critical areas as an element of the State Development Plan. 3) The critical areas element is submitted to the Governor for approval.	No State regulatory authority provided for.
Delaware Coastal Zone Act (Del. Stat. tit. 29 Chap. 70; 58 Del. Laws, Chap. 175-7001-7003-Enacted 1971).	State Planning Office.	Prohibits development for: 1) heavy industrial purposes or, 2) offshore bulk product transfers. Other manufacturing uses are regulated through a State permit system.	State operated, with local approval mandatory before any permit can be approved by the State.	Full immediate authority.
California Coastal Zone Conservation Act. (Cal. Pub. Res. Code 2700-27650-Enacted 1972).	California Coastal Zone Conservation Commission.	Regulates development within a designated permit zone along the State's coastline and prepares plans for a slightly larger area.	Six regional commissions and the State commission jointly plan for and regulate the use of land and water.	Interim authority granted to regional commissions and State commission to regulate all development involving more than \$7500.

STANDARDS, GUIDELINES, AND CRITERIA	APPEALS PROCEDURE (other than judicial review)	PUBLIC PARTICIPATION	COMMENTS
1) In SB 35, broad State guidelines direct county preparation of sub-division regulations. 2) HB 1041 contains lengthy criteria to guide local designation of areas and activities of State interest.	Land Use Commission monitors and reviews local designation process under HB 1041. The Commission may formally request a designation or request a review by the Governor.	1) Citizen's Advisory Committee created by State Commission. 2) Public hearings required prior to designation of "matters of State interest."	State Land Use Commission has recently completed a report on guiding future development in Colorado; it suggests ways in which a greater State role can be introduced in land use decision-making.
Each critical area plan contains minimum standards and criteria for the conservation and use of land and other natural resources within the area.	No provision for administrative appeals.	1) Public hearings required. 2) A State land use planning advisory council created to assist Director of Department of Conservation and Natural Resources.	
State prepares guidelines to aid local designation.	No provisions for administrative appeals.	Encourages Department of State Planning to stimulate and engage public interest regarding the State Development Plan.	Provides only for designation of critical areas — regulation of these areas will require additional legislation.
Statutory guidelines aid in consideration of permit applications.	Administrative appeals made to State Coastal Zone Industrial Control Board.	1) Public hearing held on each permit application. 2) Public representation on the State Coastal Zone Industrial Control Board.	State Planning Office charged with developing a State Coastal Zone Plan. Adoption date is indefinite, but regulatory powers are not predicated upon it.
1) Criteria define kind of development which requires Regional Commission attention. 2) Planning objectives guide interim permit decisions and form the basis for the coastal plan now being formulated.	Administrative appeals of regional commission decisions made to State Commission.	1) Public representation required on State and regional commissions. 2) Public hearings must precede adoption of all State and regional regulations and must accompany all permit applications for development. 3) Provision for initiation of citizen suits.	The State Coastal Plan must go to the Governor and Legislature in Jan. 1976. The Commission, and its temporary regulatory powers, expire under present law on Jan. 1, 1977.

C. STATE LAND USE PLANNING AND MANAGEMENT PROGRAMS

STATE	ADMINISTERING AGENCY	PROGRAM SUBSTANCE	ORGANIZATION AND OPERATION	INTERIM REGULATORY AUTHORITY
An Act to establish the San Francisco Bay Conservation and Development Commission. (Cal. Rev. Stat. tit. 7.2, Sec. 66600-66650 - Enacted 1965).	San Francisco Bay Conservation and Development Commission (BCDC).	BCDC's primary responsibility is to regulate fill and dredging; it also has responsibilities for land use in a 100 foot strip around the Bay. Regulation is based on a plan approved by the State Legislature.	BCDC is a regional body authorized by State law. Federal, State, local and public representatives are included in the Commission's membership.	BCDC had interim authority over dredging and filling operations while it was preparing the plan and designing the final permit system.
New Jersey Coastal Area Facility Review Act. (N.J. Stat. Ann. tit. 13, Chap. 19 - Enacted 1973).	Department Of Environmental Protection.	State permit system regulates major industrial and residential development in the coastal zone.	State operated. No local government role in either regulating or planning.	Full immediate authority.
Minnesota Critical Areas Act. (Minn. Stat. Ann. tit. 9, Sec. 116G.01 to 116G.14; Supp. 1974 - Enacted 1973).	Environmental Quality Council.	Identifies, plans for, and regulates those areas of the State, which because of unique characteristics, could be damaged by uncontrolled development.	1) The Environmental Quality Council makes recommendations to the Governor for the selection of areas of critical State concern. The Governor makes the final designation - which is effective for only three years or until approved by the Legislature or a regional development commission. 2) Upon notification of the designation of an area of critical concern within their jurisdiction, localities must develop plans and regulations which appropriately deal with the areas. The Environmental Quality Council reviews these plans and regulations.	Once a critical area has been designated, development permits may be issued by local governments only in special situations.
North Carolina Coastal Area Management Act. (N.C. Stat. Sec. 113A-105; Supp. 1973 - Enacted 1974).	Coastal Resources Commission.	Regulates, through a permit system, certain public and private uses of land and water within the State's Coastal area. Establishes a comprehensive inter-governmental system of land use planning.	1) Counties are charged with developing a land use plan with which all future development must be consistent. If counties do not develop plans, the State will. 2) State Commission also designates and specifies areas of environmental concern, within which development will be regulated.	Full authority to designate interim areas of environmental concern, while final designation of such areas is occurring.
Adirondack Park Land Use and Development Plan. (Chap. 348 of the Laws of New York of 1973, amending Chap. 706 of the Laws of 1971, Section 815).	Adirondack Park Agency. (Independent Agency of the State of New York).	1) Regulates, through a permit system, development of non-State-owned lands within the Adirondack Park. 2) Agency is mandated to work with local governments (towns and villages) within the Park to assist and encourage them in developing local land use programs that complement the plan for the entire Park.	1) All private land within the park is divided into one of six designated land use classification areas. (Four of these land use areas have prescribed intensity guidelines.) 2) State control over local development decisions is modified according to establishment of local land use plans.	Park Agency had interim authority to establish controls over most land uses.

STANDARDS, GUIDELINES, AND CRITERIA	APPEALS PROCEDURE (other than judicial review)	PUBLIC PARTICIPATION	COMMENTS
San Francisco Bay Plan contains policies and maps which guide permit decisions.	Initial Commission decision on permit application may be submitted a second time to the Commission.	1) Public membership required on the Commission (including the chairmanship.) 2) A citizen's advisory committee assists and advises the Commission.	A unique regional land use control agency. The forerunner, and in some respects the model, for the California Coastal Zone Act.
Statutory criteria guide consideration of permit applications. Additional discretionary guidelines are available for use by Dept. of Environmental Protection.	Administrative appeals made to Coastal Area Review Board.	Public hearings required for each permit application.	An environmental design and strategy for the New Jersey Coastal area is to be developed by the Dept. of Environmental Protection and submitted to the Legislature in 1975.
Criteria for the selection of areas of critical concern are prepared by the Environmental Quality Council.	No provisions for administrative appeals.	Public hearings required prior to recommendations by Environmental Quality Council for critical area designations.	First administrative designation of an area of critical State concern -- a portion of the St. Croix River -- occurred in early 1974.
1) State guidelines developed to direct coastal area counties in preparation of land use plans. 2) Statutory specification of areas of environmental concern. 3) State criteria guide permit implementation process.	Administrative appeals made to the Coastal Resources Commission.	1) Public membership on Coastal Resources Commission; also an Advisory Council assists the Commission. 2) Public hearings must accompany adoption or amendment of any land use plan, and must precede the adoption of proposed areas of critical environmental concern.	
1) Compatible uses listed for each land use classification area; guidelines established for permissible overall intensities of development in four of the six classification areas. 2) Regional projects requiring permits are also listed for each land area.	Appeals procedure available for land reclassification changes.	1) Public membership on Park Agency. 2) Public hearings may be held on controversial or complex projects. 3) A Local Government Review Board, consisting of representatives of each of the 11 Adirondack Counties, monitors and advises the Adirondack Park Agency.	A regulatory land use strategy which attempts to alleviate public/private land use conflicts within the Park Preserve, and assert a system of comprehensive, intergovernmental land use planning.

BIBLIOGRAPHY

Bosselman, Fred and Callies, David,
The Quiet Revolution in Land Use Control. (Washington: The U. S.
Government Printing Office, 1971).

Council of State Governments, Inter-governmental Relations in
State Land Use Planning. (Lexington: The Council of State
Governments, 1974).

Council of State Governments, The Land Use Puzzle. (Lexington:
The Council of State Governments, 1974).

Council of State Government's, The State's Role in Land Resource
Management. (Lexington: The Council of State Governments, 1972).

Environmental Land Management, Final Report to the Governor of Florida
and the Legislature by the Environmental Land Management Study
Committee, December, 1973.

Finnell, Gilbert E., "Saving Paradise : The Florida Environ-
mental Land and Water Management Act of 1972", Urban Law Annual, 1973.

Fletcher, Wendell and Duddleson, William, A Comparative Anatomy
of Eight State Land-Use Control Programs. (Washington: The Con-
servation Foundation, 1974).

Haskell, Elizabeth and Price, Victoria, State Environmental
Management: Case Studies of Nine States. (New York: Praeger, 1973).

Heller, Alfred, ed., The California Tomorrow Plan, A First
Sketch. (Sacramento: California Tomorrow, 1971)

Kusler, Jon A., State Land Planning and Regulatory Functions;
Proposals and Programs from the Several States and a Draft
Bill for Wisconsin. The Institute for Environmental Studies;
Working Paper 8E. (Madison: University of Wisconsin, 1972).

Land Use Planning Reports, A Summary of State Land Use Controls.
(Washington: Plus Publications, Inc., 1974)

A Land Use Program for Colorado, Report by the Colorado Land Use
Commission, 1974.

Little, Charles E., The New Oregon Trail. (Washington: The
Conservation Foundation, 1974).

Meyers, Phyllis, Slow Start in Paradise. (Washington: The
Conservation Foundation, 1974).

Meyers, Phyllis, So Goes Vermont. (Washington: The Conservation
Foundation, 1974).

Odell, Rice, The Saving of San Francisco Bay. (Washington: The
Conservation Foundation, 1972).

Bibliography Continued

Oregon Land Use Legislation, Volume I, Analysis, Prepared by the Local Government Relations Division, Executive Department, State of Oregon, and the Oregon State University Extension Service. (Salem: Office of the Governor, 1973).

Oregon Land Use Legislation, Volume II, Enacted Bills, Prepared by the Local Government Relations Division, Executive Department, State of Oregon, and the Oregon State University Extension Service. (Salem: Office of the Governor, 1973).

State Government, The Journal of State Affairs, Published by the Council of State Governments, Volume XLVI: Summer 1973: Number 3. (Special issue on land use).

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